IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

Bail Appl..No. 5431 of 2007()

CRIME NO. 274/07 OF ANCHALUMMOOD POLICE STATION

PETITIONER/ACCUSED

SOOSAN @ MARIAMMA CHANDY,
AGED 35 YEARS, D/O. VARKEY CHANDY,
VADAKKETHALAKKAL, KADAPRA, THIRUVALLA.

BY ADV. SRI.JOSEPH GEORGE

RESPONDENTS: COMPLAINANT

STATE OF KERALA REPRESENTED BY THE
S.I. OF POLICE,ANCHALUMMOOD POLICE STATION,
KOLLAM DISTRICT,BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 18/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

- -

B.A.No. 5431 of 2007

- -

Dated this the 18th day of September, 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations under Section 420 r/w. 34 I.P.C. The crux of the allegations against the petitioner is that she had fraudulently induced the defacto complainant to part with money on the promise that some gold available in her possession shall be handed over to the defacto complainant. Crime has been registered. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent of the allegations levelled against her. A careful reading of the complaint must reveal that the allegations are inherently improbable that no reasonably prudent person can swallow the allegations without a pinch of salt. The defacto complainant is neck deep in debts. Her properties were being proceeded against by the financiers. At that time, the accused is alleged to have promised to the defacto complainant that she will hand over the gold in her possession for a lesser price to the defacto

complainant. The defacto complainant allegedly believed the representation and parted with amounts, which she allegedly raised with very great difficulties, notwithstanding the fact that she was already in deep financial trouble. The defacto complainant alleges that the petitioner allegedly handed over a package - a heavy one. Believing it to be gold, she accepted it without opening the same. After the petitioner left, she had opened it to find that it was not gold, but it was only an idol. The learned counsel for the petitioner submits, in these circumstances, that anticipatory bail may be granted to the petitioner.

3. The learned Prosecutor does not oppose the application. He submits that it is the gullible, who are usually victims of such crime and the mere fact that the defacto complainant had foolishly accepted the package and parted with money may not be reckoned as sufficient to knock the bottom out of the allegations raised by the defacto complainant. At this stage of investigation, I shall not embark on any detailed discussion on merits about the acceptability of the allegations raised of the credibility of the data collected. Suffice it to say that I am persuaded to agree that this is a fit case where the petitioner, a woman, can be granted anticipatory bail.

Appropriate conditions can of course be imposed in the interests of a fair, efficient and expeditious investigation.

4. In the result:

(1) This application is allowed in part.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall surrender before the learned Magistrate on 25.9.2007 at 11 a.m. The learned Magistrate shall release the petitioner on regular bail on condition that she executes a bonds for Rs.50,000/- (Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make herself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 26.9.07, 27.9.07 and 28.9.07 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months and subsequently as and when directed by the Investigating Officer in writing to do so.

(d) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 25.9.06 and the police shall be at liberty thereafter to arrest the petitioner and deal with her in accordance with law.

(b) If the petitioner were arrested prior to her surrender on 25.9.2006 as directed in clause (1) above, she shall be released on bail on her executing a bond for Rs.50,000/- without any surety undertaking to appear before the learned Magistrate on 25.9.2007.

(R. BASANT)
Judge

tm